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CLERK U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

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CAPITOL RECORDS, INC.; UMG
RECORDINGS, INC.; VIRGIN RECORDS
AMERICA, INC.; LAFACE RECORDS
LLC; LAVA RECORDS LLC; SONY BMG
MUSIC ENTERTAINMENT; BMG
MUSIC; and ATLANTIC RECORDING
CORPORATION

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
DIVISION

CAPITOL RECORDS, INC., a Delaware
corporation; UMG RECORDINGS, INC., a
Delaware corporation; VIRGIN RECORDS
AMERICA, INC., a California corporation;
LAFACE RECORDS LLC, a Delaware limited
liability company; LAVA RECORDS LLC, a
Delaware limited liability company; SONY
BMG MUSIC ENTERTAINMENT, a Delaware
general partnership; BMG MUSIC, a New York
general partnership; and ATLANTIC
RECORDING CORPORATION, a Delaware
corporation,

Plaintiffs,

v.

JOHN DOE,

Defendant.

CASE NO. _____

**COMPLAINT FOR COPYRIGHT
INFRINGEMENT**

COMPLAINT FOR COPYRIGHT INFRINGEMENT

Case No. _____
#36404 v1

JURISDICTION AND VENUE

1
2 1. This is a civil action seeking damages and injunctive relief for copyright infringement
3 under the copyright laws of the United States (17 U.S.C. § 101 *et seq.*).

4 2. This Court has jurisdiction under 17 U.S.C. § 101 *et seq.*; 28 U.S.C. § 1331 (federal
5 question); and 28 U.S.C. § 1338(a) (copyright).

6 3. Venue in this District is proper. See 28 U.S.C. §§ 1391(b), 1400(a). Although the
7 true identity of Defendant is unknown to Plaintiffs at this time, on information and belief, Defendant
8 may be found in this District and/or a substantial part of the acts of infringement complained of
9 herein occurred in this District. On information and belief, personal jurisdiction in this District is
10 proper because Defendant, without consent or permission of the copyright owner, disseminated over
11 the Internet copyrighted works owned and/or controlled by Plaintiffs. On information and belief,
12 such illegal dissemination occurred in every jurisdiction in the United States, including this one. In
13 addition, Defendant contracted with an Internet Service Provider ("ISP") found in this District to
14 provide Defendant with the access to the Internet which facilitated Defendant's infringing activities.

PARTIES

15
16 4. Plaintiff Capitol Records, Inc. is a corporation duly organized and existing under the
17 laws of the State of Delaware, with its principal place of business in the State of New York.

18 5. Plaintiff UMG Recordings, Inc. is a corporation duly organized and existing under the
19 laws of the State of Delaware, with its principal place of business in the State of California.

20 6. Plaintiff Virgin Records America, Inc. is a corporation duly organized and existing
21 under the laws of the State of California, with its principal place of business in the State of New
22 York.

23 7. Plaintiff LaFace Records LLC is a limited liability company duly organized and
24 existing under the laws of the State of Delaware, with its principal place of business in the State of
25 New York.

26 8. Plaintiff Lava Records LLC, a limited liability company, is a joint venture between
27 Atlantic Recording Corporation and Diamond Music LLC, and is duly organized and existing under
28 the laws of the State of Delaware, with its principal place of business in the State of New York.

9. Plaintiff SONY BMG MUSIC ENTERTAINMENT is a Delaware general partnership, with its principal place of business in the State of New York.

10. Plaintiff BMG Music is a general partnership duly organized and existing under the laws of the State of New York, with its principal place of business in the State of New York.

11. Plaintiff Atlantic Recording Corporation is a corporation duly organized and existing under the laws of the State of Delaware, with its principal place of business in the State of New York.

12. The true name and capacity of Defendant are unknown to Plaintiffs at this time. Defendant is known to Plaintiffs only by the Internet Protocol ("IP") address assigned to Defendant by his or her ISP on the date and time of Defendant's infringing activity. See Exhibit A. Plaintiffs believe that information obtained in discovery will lead to the identification of Defendant's true name.

COUNT I

INFRINGEMENT OF COPYRIGHTS

13. Plaintiffs incorporate herein by this reference each and every allegation contained in each paragraph above.

14. Plaintiffs are, and at all relevant times have been, the copyright owners or licensees of exclusive rights under United States copyright law with respect to certain copyrighted sound recordings, including, but not limited to, all of the copyrighted sound recordings on Exhibit A to this Complaint (collectively, these copyrighted sound recordings shall be identified as the "Copyrighted Recordings"). Each of the Copyrighted Recordings is the subject of a valid Certificate of Copyright Registration issued by the Register of Copyrights to each Plaintiff as specified on each page of Exhibit A.

15. Among the exclusive rights granted to each Plaintiff under the Copyright Act are the exclusive rights to reproduce the Copyrighted Recordings and to distribute the Copyrighted Recordings to the public.

16. Plaintiffs are informed and believe that Defendant, without the permission or consent of Plaintiffs, has continuously used, and continues to use, an online media distribution system to

1 download and/or distribute to the public certain of the Copyrighted Recordings. Exhibit A identifies
2 the IP address with the date and time of capture and a list of copyrighted recordings that Defendant
3 has, without the permission or consent of Plaintiffs, downloaded and/or distributed to the public.
4 Through his or her continuous and ongoing acts of downloading and/or distributing to the public the
5 Copyrighted Recordings, Defendant has violated Plaintiffs' exclusive rights of reproduction and
6 distribution. Defendant's actions constitute infringement of Plaintiffs' copyrights and/or exclusive
7 rights under copyright. (In addition to the sound recordings listed on Exhibit A, Plaintiffs are
8 informed and believe Defendant has, without the permission or consent of Plaintiffs, continuously
9 downloaded and/or distributed to the public additional sound recordings owned by or exclusively
10 licensed to Plaintiffs or Plaintiffs' affiliate record labels, and Plaintiffs believe that such acts of
11 infringement are ongoing. Exhibit A includes the currently-known total number of audio files being
12 distributed by Defendant.)

13 17. Plaintiffs have placed proper notices of copyright pursuant to 17 U.S.C. § 401 on
14 each respective album cover of each of the sound recordings identified in Exhibit A. These notices
15 of copyright appeared on published copies of each of the sound recordings identified in Exhibit A.
16 These published copies were widely available, and each of the published copies of the sound
17 recordings identified in Exhibit A was accessible by Defendant.

18 18. Plaintiffs are informed and believe that the foregoing acts of infringement have been
19 willful, intentional, and in disregard of and with indifference to the rights of Plaintiffs.

20 19. As a result of Defendant's infringement of Plaintiffs' copyrights and exclusive rights
21 under copyright, Plaintiffs are entitled to statutory damages pursuant to 17 U.S.C. § 504(c) against
22 Defendant for each infringement of each copyrighted recording. Plaintiffs further are entitled to
23 their attorneys' fees and costs pursuant to 17 U.S.C. § 505.

24 20. The conduct of Defendant is causing and, unless enjoined and restrained by this
25 Court, will continue to cause Plaintiffs great and irreparable injury that cannot fully be compensated
26 or measured in money. Plaintiffs have no adequate remedy at law. Pursuant to 17 U.S.C. §§ 502
27 and 503, Plaintiffs are entitled to injunctive relief prohibiting Defendant from further infringing
28

1 Plaintiffs' copyrights, and ordering that Defendant destroy all copies of copyrighted sound
2 recordings made in violation of Plaintiffs' exclusive rights.

3 WHEREFORE, Plaintiffs pray for judgment against Defendant as follows:

4 1. For an injunction providing:

5 "Defendant shall be and hereby is enjoined from directly or indirectly
6 infringing Plaintiffs' rights under federal or state law in the
7 Copyrighted Recordings and any sound recording, whether now in
8 existence or later created, that is owned or controlled by Plaintiffs (or
9 any parent, subsidiary, or affiliate record label of Plaintiffs)
10 ("Plaintiffs' Recordings"), including without limitation by using the
11 Internet or any online media distribution system to reproduce (*i.e.*,
12 download) any of Plaintiffs' Recordings or to distribute (*i.e.*, upload)
any of Plaintiffs' Recordings, except pursuant to a lawful license or
with the express authority of Plaintiffs. Defendant also shall destroy
all copies of Plaintiffs' Recordings that Defendant has downloaded
onto any computer hard drive or server without Plaintiffs'
authorization and shall destroy all copies of those downloaded
recordings transferred onto any physical medium or device in
Defendant's possession, custody, or control."

13 2. For statutory damages for each infringement of each Copyrighted Recording
14 pursuant to 17 U.S.C. § 504.

15 3. For Plaintiffs' costs in this action.

16 4. For Plaintiffs' reasonable attorneys' fees incurred herein.

17 5. For such other and further relief as the Court may deem just and proper.
18

19 Dated: March 27, 2008

HOLME ROBERTS & OWEN LLP

20
21 By



22 MATTHEW FRANKLIN JAKSA
23 Attorney for Plaintiffs
24 CAPITOL RECORDS, INC.; UMG
25 RECORDINGS, INC.; VIRGIN RECORDS
26 AMERICA, INC.; LAFACE RECORDS LLC;
27 LAVA RECORDS LLC; SONY BMG MUSIC
28 ENTERTAINMENT; BMG MUSIC; and
ATLANTIC RECORDING CORPORATION

EXHIBIT A

EXHIBIT A**JOHN DOE****IP Address:** 207.62.142.48 2007-10-16 09:08:39 EDT**CASE ID#** 145106238**P2P Network:** GnutellaUS**Total Audio Files:** 1348

<u>Copyright Owner</u>	<u>Artist</u>	<u>Recording Title</u>	<u>Album Title</u>	<u>SR#</u>
Capitol Records, Inc.	Yellowcard	Miles Apart	Ocean Avenue	343-413
UMG Recordings, Inc.	Papa Roach	Scars	Getting Away With Murder	360-567
Virgin Records America, Inc.	Smashing Pumpkins	1979	Mellon Collie and the Infinite Sadness	183-904
UMG Recordings, Inc.	Lifefhouse	You And Me	Lifefhouse	370-643
LaFace Records LLC	Usher	Bedtime	My Way	257-730
Lava Records LLC	Simple Plan	I'm Just a Kid	No Pads, No Helmets...Just Balls	351-060
SONY BMG MUSIC ENTERTAINMENT	Incubus	Wish You Were Here	Morning View	306-181
BMG Music	Foo Fighters	Best of You	In Your Honor	377-762
Atlantic Recording Corporation	Craig David	7 Days	Born To Do It	303-747
UMG Recordings, Inc.	Ludacris	Area Codes	Area Codes (single)	300-159